IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 31003 OF 1998

Date: 25.11.2005

BETWEEN:

1. Uppada Vijayalaxmi and others.

…. PETITIONERS

And

1. The Appellat Authority Under Section 33 of the Urban Land (Ceiling & Regulation) Act, 1976, rep. by its Commissioner of Land Reforms & Urban Land Ceiling, Hyderabad, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 31003 OF 1998

ORDER:

The petitioners are sisters. They are daughters of the third respondent, who filed a declaration before the second respondent under Section 6 of the Urban Land (Ceiling & Regulation) Act, 1976 ('the Act' for brevity) in respect of the property admeasuring an extent of 7456 sq. mts. of vacant land in S.No.49/2 situated at Madhavadhara. According to the petitioners, the said property is 1/4th share of the third respondent got in succession to the properties of the petitioners' paternal grandmother, which is allegedly stridhana property out of Acs.7.38. The petitioners allege that being the daughters, they are entitled to claim share in stridhana property of their grandmother, but their father did not reveal this in the declaration. As a result of which he was declared as surplus vacant landholder. After the formalities are completed under Sections 8(4) and 10(1) of the Act, a notice under Section 10(5) of the Act was issued on 22.4.1993 for taking possession. The petitioners challenged the same before the first respondent under Section 33 of the Act, who by the

impugned order dated 12.9.1994 dismissed the appeal.

In this writ petition it is contended that there was an oral partition between the petitioners on the one side and the third respondent on the other, in 1974, and that the petitioners have a share in the property of their paternal grandmother, and therefore determination of surplus land in the declaration filed by the third respondent is illegal.

The submission raised in this writ petition cannot be accepted. Even according to the petitioners they did not specifically challenge the order of the second respondent passed under Section 8(4) of the Act determining the surplus vacant land of the third respondent, the father of the petitioners. Secondly, no evidence was placed by the petitioners in support of their contention that there was oral partition in 1974 under which they claim the property. Thirdly, admittedly the third respondent inherited 7456 sq. mts. of land from the paternal grandmother of the petitioners, in which event the petitioners cannot have any right till the death of the third respondent. As Class-I heir under Section 8 read with Schedule to Hindu Succession Act, 1956, the daughters of the third respondent may have a share along with four other brothers of the petitioners. Till the succession opens, the petitioners cannot have any right to claim the property. In that view of the matter, this Court does not find any infirmity or illegality in the order passed by the first respondent.

The Writ Petition is accordingly dismissed. No costs.

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(**V.V.S. RAO, J.**)

25th November, 2005

Js.